

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

Nahas, et al.,

NO. C 03-5057 JW

Plaintiffs,

**CORRECTED ORDER GRANTING
DEFENDANTS' MOTION TO PRECLUDE
EXPERT TESTIMONY**

v.

City of Mountain View, et al.,

Defendants.

On July 25, 2005, the Court heard Defendants' Motion to Preclude Expert Testimony. The Court has determined that Plaintiffs' proposed expert based his proposed testimony on records that were not created in accordance with Generally Accepted Accounting Principles ("GAAP"). Therefore, the report relied on by Plaintiffs' proposed expert and his proposed testimony are unreliable and will be precluded. This does not, however, bar Plaintiffs from submitting a revised report in accordance with GAAP and tendering an expert relying on such a report. If Plaintiffs choose to do so, they must notify Defendants of their intent to file their new report and send a copy of this notification to the Court. Thereafter, the parties shall meet and confer regarding scheduling any further discovery.

During the hearing, Defendants requested that the Court preclude Plaintiffs' expert testimony relying on non-contemporaneous records. The Court found the existing report defective and now invites Defendants to seek sanctions accordingly and request costs stemming from Defendants' preparation of their Motion to Preclude Expert Testimony and any expenses regarding the revised report.

If Plaintiffs decide not to tender expert testimony, Plaintiffs should notify Defendants.
Defendants should update Plaintiffs of any change in their own intentions to tender expert testimony.

Dated: August 17, 2005

/s/James Ware

JAMES WARE

United States District Judge

03cv5057.exptest

1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

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9 **Dated: August 17, 2005**

Richard W. Wieking, Clerk

10 **By: /s/JWchambers**
11 **Ronald L. Davis**
12 **Courtroom Deputy**